

Sec.		Sec.	
2285.	Environmental Protection and Mitigation Fund.	2326b.	Sediment management.
2286.	Acceptance of certain funds for mitigation.	2326c.	Reservoir sediment.
2287.	Continued planning and investigations.	2326d.	Alternative projects to maintenance dredging.
2288.	Repealed.	2326e.	Non-Federal interest dredging authority.
2289.	Urban and rural flood control frequency.	2326f.	Maintenance dredging data.
2289a.	Consideration of measures.	2326g.	Beneficial use of dredged material; dredged material management plans.
2290.	Flood control in Trust Territory of the Pacific Islands.	2326h.	Five-year regional dredged material management plans.
2291.	Federal Project Repayment District.	2327.	Definition of rehabilitation for inland waterway projects.
2292.	Surveying and mapping.	2327a.	Rehabilitation of Corps of Engineers constructed pump stations.
2293.	Reprogramming during national emergencies.	2328.	Challenge cost-sharing program for management of recreation facilities.
2293a.	Reprogramming of funds for projects by Corps of Engineers.	2328a.	Special use permits.
2294.	Office of Environmental Policy.	2329.	International outreach program.
2295.	Compilation of laws; annual reports.	2330.	Aquatic ecosystem restoration.
2296.	Acquisition of recreation lands.	2330a.	Monitoring ecosystem restoration.
2297.	Operation and maintenance on recreation lands.	2330b.	Fish hatcheries.
2298.	Impact of proposed projects on existing recreation facilities.	2330c.	Aquatic ecosystem restoration.
2299.	Acquisition of beach fill.	2331.	Use of continuing contracts for construction of certain projects.
2300.	Study of Corps capabilities.	2331a.	Initiating work on separable elements.
2301, 2302.	Omitted.	2332.	Flood mitigation and riverine restoration program.
2303.	Historical properties.	2333.	Irrigation diversion protection and fisheries enhancement assistance.
2304.	Separability.	2334.	Innovative technologies for watershed restoration.
2305.	Use of FMHA funds.	2335.	Coastal aquatic habitat management.
2306.	Reports.	2336.	Abandoned and inactive noncoal mine restoration.
2307.	Control of ice.	2337.	Property protection program.
2308.	Campgrounds for senior citizens.	2338.	Reburial and conveyance authority.
2309.	Great Lakes Commodities Marketing Board.	2339.	Assistance programs.
2309a.	Project modifications for improvement of environment.	2339a.	Cooperative agreements with Indian tribes.
2310.	Cost sharing for Territories and Indian tribes.	2340.	Revision of project partnership agreement; cost sharing.
2311.	Report to Congress covering proposals for water impoundment facilities.	2341.	Expedited actions for emergency flood damage reduction.
2312.	Comments on certain changes in operations of reservoirs.	2341a.	Prioritization.
2313.	Collaborative research and development.	2341b.	Prioritization of certain projects.
2313a.	Engineering and environmental innovations of national significance.	2341c.	Criteria for funding environmental infrastructure projects.
2313b.	Support of Army civil works program.	2342.	Access to water resource data.
2314.	Innovative technology.	2343.	Independent peer review.
2314a.	Technical assistance program.	2344.	Safety assurance review.
2314b.	Advanced modeling technologies.	2345.	Electronic submission and tracking of permit applications.
2315.	Periodic statements.	2346.	Project administration.
2315a.	Transparency in accounting and administrative expenses.	2347.	Coordination and scheduling of Federal, State, and local actions.
2315b.	Transparency and accountability in cost sharing for water resources development projects.	2347a.	Determination of project completion.
2316.	Environmental protection mission.	2347b.	Purpose and need.
2317.	Wetlands.	2347c.	Small water storage projects.
2317a.	Cooperative agreements.	2348.	Project acceleration.
2317b.	Mitigation banks and in-lieu fee arrangements.	2349.	Categorical exclusions in emergencies.
2318.	Flood plain management.	2350.	Corrosion prevention.
2319.	Reservoir management.	2351.	Durability, sustainability, and resilience.
2320.	Protection of recreational and commercial uses.	2351a.	Operation and maintenance of existing infrastructure.
2321.	Operation and maintenance of navigation and hydroelectric facilities.	2352.	Funding to process permits.
2321a.	Hydroelectric power project uprating.	2353.	Structural health monitoring.
2321b.	Expediting hydropower at Corps of Engineers facilities.	2353a.	Aging infrastructure.
2322.	Single entities.	2354.	Easements for electric, telephone, or broadband service facilities.
2323.	Technical assistance to private entities.	2355.	Prior project authorization.
2323a.	Interagency and international support authority.	2356.	Project consultation.
2324.	Reduced pricing for certain water supply storage.		
2325.	Voluntary contributions for environmental and recreation projects.		
2325a.	Authority to accept and use materials and services.		
2325b.	Materials, services, and funds for repair, restoration, or rehabilitation of projects.		
2326.	Regional sediment management.		
2326a.	Dredged material disposal facility partnerships.		

§ 2201. “Secretary” defined

For purposes of this Act, the term “Secretary” means the Secretary of the Army.
(Pub. L. 99-662, §2, Nov. 17, 1986, 100 Stat. 4082.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended, known as the Water Re-

sources Development Act of 1986. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116-260, div. AA, §1(a), Dec. 27, 2020, 134 Stat. 2615, provided that: “This division [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2020’.”

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-270, §1(a), Oct. 23, 2018, 132 Stat. 3765, provided that: “This Act [see Tables for classification] may be cited as ‘America’s Water Infrastructure Act of 2018’.”

Pub. L. 115-270, title I, §101, Oct. 23, 2018, 132 Stat. 3768, provided that: “This title [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2018’.”

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114-322, §1(a), Dec. 16, 2016, 130 Stat. 1628, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Infrastructure Improvements for the Nation Act’ or the ‘WIIN Act’.”

Pub. L. 114-322, title I, §1001, Dec. 16, 2016, 130 Stat. 1632, provided that: “This title [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2016’.”

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113-121, §1(a), June 10, 2014, 128 Stat. 1193, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Reform and Development Act of 2014’.”

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110-114, §1(a), Nov. 8, 2007, 121 Stat. 1041, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2007’.”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-541, §1(a), Dec. 11, 2000, 114 Stat. 2572, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 2000’.”

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-53, §1(a), Aug. 17, 1999, 113 Stat. 269, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 1999’.”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-303, §1(a), Oct. 12, 1996, 110 Stat. 3658, provided that: “This Act [see Tables for classification] may be cited as the ‘Water Resources Development Act of 1996’.”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-580, §1(a), Oct. 31, 1992, 106 Stat. 4797, provided that: “This Act [enacting sections 59gg, 426i-1, 569d to 569f, 653, 1271, 2268, and 2325 to 2329 of this title, amending sections 426j, 467f, 467j to 467l, 562, 652, 1342, 1412, 1413, 1414, 1415, 1416, 1420, 1421, 2211, 2213, 2283, and 2309a of this title, section 3036 of Title 10, Armed Forces, sections 460tt, 4702, and 4711 of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 541, 1271, 2211, 2239, 2267, and 2281 of this title, section 9505 of Title 26, Internal Revenue Code, and sections 390h-4 and 390h-5 of Title 43, Public Lands] may be cited as the ‘Water Resources Development Act of 1992’.”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-640, §1(a), Nov. 28, 1990, 104 Stat. 4604, provided that: “This Act [enacting sections 59bb and 2316 to 2324 of this title, amending sections 579a, 652, 701n, 709a, 2213, 2215, 2232, 2238, 2281, 2309a, and 2314a of this title, section 460tt of Title 16, Conservation, and section 1962d-16 of Title 42, The Public Health and Welfare, repealing sections 579 and 2239 of this title, enacting provisions set out as notes under this section, sections 426e, 1252, 1268, 2213, 2232, 2239, 2313, and 2317 of this title, and section 1405c of Title 48, Territories and Insular Possessions, and amending provisions set out as notes under sections 2294 and 2314 of this title and section 460d of Title 16] may be cited as the ‘Water Resources Development Act of 1990’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-676, §1(a), Nov. 17, 1988, 102 Stat. 4012, provided that: “This Act [enacting sections 59j-1, 59y, 59z, and 2312 to 2315 of this title, amending sections 426j, 701b-12, 1293a, 2211, 2239, 2280, and 2291 of this title and section 1962d-5a of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section, sections 579a, 988, 2211, 2294, 2300, and 2314 of this title, and section 1962d-5g of Title 42, and amending provisions set out as a note under section 2294 of this title] may be cited as the ‘Water Resources Development Act of 1988’.”

SHORT TITLE

Pub. L. 99-662, §1(a), Nov. 17, 1986, 100 Stat. 4082, provided that: “This Act [enacting this chapter and sections 59n-1, 59v, 59w, 403b, 426n, 426o, 467f to 467n, 555a, 579a, 652, 701b-12, 709b, 988a, and 1414a of this title, sections 460tt of Title 16, Conservation, sections 4461, 4462, 9505, and 9506 of Title 26, Internal Revenue Code, section 483d of former Title 40, Public Buildings, Property, and Works, and sections 1962d-11b and 1962d-20 of Title 42, The Public Health and Welfare, amending sections 409, 414, 415, 426g, 426i, 426j, 426m, 467, 467b, 555, 557, 603a, 610, 701a-1, 701g, 701n, 701r, 701s, 984, and 1804 of this title, section 3036 of Title 10, Armed Forces, sections 460ee and 1002 of Title 16, section 4042 of Title 26, sections 1962d-5a, 1962d-5b, 1962d-5d, 1962d-5f, and 1962d-16 of Title 42, sections 390 and 390b of Title 43, Public Lands, and section 1121-1 of Title 46, Appendix, Shipping, repealing sections 1801 and 1802 of this title, enacting provisions set out as notes under this section, sections 426, 426g, 467, 661, 984, 988, 1414a, and 2294 of this title, sections 460d and 1004 of Title 16, sections 1, 4042, 4461, 9505, and 9506 of Title 26, sections 1962d-5b, 1962d-20, and 10301 of Title 42, and section 390b of Title 43, and amending provisions set out as a note under section 1962b-3 of Title 42] may be cited as the ‘Water Resources Development Act of 1986’.”

Pub. L. 99-662, title II, §215, Nov. 17, 1986, 100 Stat. 4109, provided that: “This title [enacting subchapter II of this chapter] may be cited as the ‘Harbor Development and Navigation Improvement Act of 1986’.”

PILOT PROGRAMS ON THE FORMULATION OF CORPS OF ENGINEERS PROJECTS IN RURAL COMMUNITIES AND ECONOMICALLY DISADVANTAGED COMMUNITIES

Pub. L. 116-260, div. AA, title I, §118, Dec. 27, 2020, 134 Stat. 2629, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] shall establish and implement pilot programs, in accordance with this section, to evaluate opportunities to address the flood risk management and hurricane and storm damage risk reduction needs of rural communities and economically disadvantaged communities.

“(b) ECONOMICALLY DISADVANTAGED COMMUNITY FLOOD PROTECTION AND HURRICANE AND STORM DAMAGE REDUCTION STUDY PILOT PROGRAM.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Secretary shall establish and implement a pilot program to carry out feasibility studies, in accordance with this subsection, for flood risk management and hurri-

cane and storm damage risk reduction projects for economically disadvantaged communities, in coordination with non-Federal interests.

“(2) PARTICIPATION IN PILOT PROGRAM.—In carrying out paragraph (1), the Secretary shall—

“(A) publish a notice in the Federal Register that requests from non-Federal interests proposals for the potential feasibility study of a flood risk management project or hurricane and storm damage risk reduction project for an economically disadvantaged community;

“(B) upon request of a non-Federal interest for such a project, provide technical assistance to such non-Federal interest in the formulation of a proposal for a potential feasibility study to be submitted to the Secretary under the pilot program; and

“(C) review such proposals and select 10 feasibility studies for such projects to be carried out by the Secretary, in coordination with the non-Federal interest, under this pilot program.

“(3) SELECTION CRITERIA.—In selecting a feasibility study under paragraph (2)(C), the Secretary shall consider whether—

“(A) the percentage of people living in poverty in the county or counties (or county-equivalent entity or entities) in which the project is located is greater than the percentage of people living in poverty in the State, based on census bureau data;

“(B) the percentage of families with income above the poverty threshold but below the average household income in the county or counties (or county-equivalent entity or entities) in which the project is located is greater than such percentage for the State, based on census bureau data;

“(C) the percentage of the population that identifies as belonging to a minority or indigenous group in the county or counties (or county-equivalent entity or entities) in which the project is located is greater than the average such percentage in the State, based on census bureau data; and

“(D) the project is addressing flooding or hurricane or storm damage effects that have a disproportionate impact on a rural community, a minority community, or an Indian Tribe.

“(4) ADMINISTRATION.—Notwithstanding the requirements of section 105(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2215), the Federal share of the cost of a feasibility study carried out under the pilot program shall be 100 percent.

“(5) STUDY REQUIREMENTS.—Feasibility studies carried out under this subsection shall, to the maximum extent practicable, incorporate natural features or nature-based features (as such terms are defined in section 1184 of the Water Resources Development Act of 2016 (33 U.S.C. 2289a)), or a combination of such features and nonstructural features, that avoid or reduce at least 50 percent of flood or storm damages in one or more of the alternatives included in the final alternatives evaluated.

“(6) NOTIFICATION.—The Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the selection of each feasibility study under the pilot program.

“(7) COMPLETION.—Upon completion of a feasibility report for a feasibility study selected to be carried out under this subsection, the Secretary shall transmit the report to Congress for authorization, and shall include the report in the next annual report submitted under section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d).

“(c) PILOT PROGRAM FOR THE RECOMMENDATION OF FLOOD PROTECTION AND HURRICANE AND STORM DAMAGE REDUCTION PROJECTS IN RURAL COMMUNITIES AND ECONOMICALLY DISADVANTAGED COMMUNITIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish and implement a pilot program to evaluate,

and make recommendations to Congress on, flood risk management projects and hurricane and storm damage risk reduction projects in rural communities or economically disadvantaged communities, without demonstrating that each project is justified solely by national economic development benefits.

“(2) CONSIDERATIONS.—In carrying out this subsection, the Secretary may make a recommendation to Congress on up to 10 projects, without demonstrating that the project is justified solely by national economic development benefits, if the Secretary determines that—

“(A) the community to be served by the project is an economically disadvantaged community or a rural community;

“(B) the long-term life safety, economic viability, and environmental sustainability of the community would be threatened without the project; and

“(C) the project is consistent with the requirements of section 1 of the Flood Control Act of 1936 (33 U.S.C. 701a).

“(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that project recommendations are consistent with the principles and requirements and the interagency guidelines, as such terms are defined in section 110 of this Act [42 U.S.C. 1962-4], including the consideration of quantifiable monetary and nonmonetary benefits of the project.

“(4) PRIORITIZATION.—The Secretary may give equivalent budgetary consideration and priority to projects recommended under this subsection.

“(d) GEOGRAPHIC DIVERSITY.—In selecting feasibility studies under subsection (b)(2)(C) or in making project recommendations under subsection (c), the Secretary shall consider the geographic diversity among proposed projects.

“(e) REPORT.—Not later than 5 years and 10 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, and make publicly available, a report detailing the results of the pilot programs carried out under this section, including—

“(1) a description of proposals received from non-Federal interests pursuant to subsection (b)(2)(A);

“(2) a description of technical assistance provided to non-Federal interests under subsection (b)(2)(B);

“(3) a description of proposals selected under subsection (b)(2)(C) and criteria used to select such proposals;

“(4) a description of the projects evaluated or recommended by the Secretary under subsection (c);

“(5) a description of the quantifiable monetary and nonmonetary benefits associated with the projects recommended under subsection (c); and

“(6) any recommendations to Congress on how the Secretary can address the flood risk management and hurricane and storm damage risk reduction needs of economically disadvantaged communities.

“(f) STATE DEFINED.—In this section, the term ‘State’ means each of the several States, the District of Columbia, and each of the commonwealths, territories, and possessions of the United States.

“(g) SUNSET.—The authority to commence a feasibility study under subsection (b), and the authority make a recommendation under subsection (c), shall terminate on the date that is 10 years after the date of enactment of this Act.’

[For definition of “economically disadvantaged community” as used in section 118 of div. AA of Pub. L. 116-260, set out above, see section 160 of div. AA of Pub. L. 116-260, set out as a note below.]

NON-FEDERAL PROJECT IMPLEMENTATION FOR COMPREHENSIVE EVERGLADES RESTORATION PLAN PROJECTS

Pub. L. 116-260, div. AA, title I, § 134(b), Dec. 27, 2020, 134 Stat. 2649, provided that:

“(1) IN GENERAL.—In carrying out the pilot program authorized under section 1043(b) of the Water Resources

Reform and Development Act of 2014 [Pub. L. 113-121] (33 U.S.C. 2201 note), the Secretary [of the Army] is authorized to include a project authorized to be implemented by, or in accordance with, section 601 of the Water Resources Development Act of 2000 [Pub. L. 106-541, 114 Stat. 2680], in accordance with such section 1043(b).

“(2) ELIGIBILITY.—In the case of a project described in paragraph (1) for which the non-Federal interest has initiated construction in compliance with authorities governing the provision of in-kind contributions for such project, the Secretary shall take into account the value of any in-kind contributions carried out by the non-Federal interest for such project prior to the date of execution of the project partnership agreement under section 1043(b) of the Water Resources Reform and Development Act of 2014 when determining the non-Federal share of the costs to complete construction of the project.

“(3) GUIDANCE.—Not later than 180 days after the date of enactment of this subsection [Dec. 27, 2020], and in accordance with the guidance issued under section 1043(b)(9) of the Water Resources Reform and Development Act of 2014 (as added by this section), the Secretary shall issue any additional guidance that the Secretary determines necessary for the implementation of this subsection.”

UNIFORMITY OF NOTIFICATION SYSTEMS

Pub. L. 116-260, div. AA, title I, § 139, Dec. 27, 2020, 134 Stat. 2651, provided that:

“(a) INVENTORY.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of the Army] shall complete an inventory of all systems used by the Corps of Engineers for external communication and notification with respect to projects, initiatives, and facilities of the Corps of Engineers.

“(b) UNIFORM PLAN.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a plan for the uniformity of such communication and notification systems for projects, initiatives, and facilities of the Corps of Engineers.

“(2) INCLUSIONS.—The plan developed under paragraph (1) shall—

“(A) provide access to information in all forms practicable, including through email, text messages, news programs and websites, radio, and other forms of notification;

“(B) establish a notification system for any projects, initiatives, or facilities of the Corps of Engineers that do not have a notification system;

“(C) streamline existing communication and notification systems to improve the strength and uniformity of those systems; and

“(D) emphasize the necessity of timeliness in notification systems and ensure that the methods of notification can transmit information in a timely manner.

“(3) IMPLEMENTATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 2 years after the date of enactment of this Act, the Secretary shall complete the implementation of the plan developed under paragraph (1).

“(B) EMERGENCY MANAGEMENT NOTIFICATION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall implement the provisions of the plan developed under paragraph (1) relating to emergency management notifications.

“(4) SAVINGS PROVISION.—Nothing in this section authorizes the elimination of any existing communication or notification system used by the Corps of Engineers.”

CONTINUING AUTHORITY PROGRAMS

Pub. L. 116-260, div. AA, title I, § 165, Dec. 27, 2020, 134 Stat. 2668, provided that:

“(a) PILOT PROGRAM FOR CONTINUING AUTHORITY PROJECTS IN SMALL OR DISADVANTAGED COMMUNITIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of the Army] shall implement a pilot program, in accordance with this subsection, for carrying out a project under a continuing authority program for an economically disadvantaged community.

“(2) PARTICIPATION IN PILOT PROGRAM.—In carrying out paragraph (1), the Secretary shall—

“(A) publish a notice in the Federal Register that requests non-Federal interest proposals for a project under a continuing authority program for an economically disadvantaged community; and

“(B) review such proposals and select a total of 10 projects, taking into consideration geographic diversity among the selected projects.

“(3) COST SHARE.—Notwithstanding the cost share authorized for the applicable continuing authority program, the Federal share of the cost of a project selected under paragraph (2) shall be 100 percent.

“(4) SUNSET.—The authority to commence pursuant to this subsection a project selected under paragraph (2) shall terminate on the date that is 10 years after the date of enactment of this Act.

“(5) CONTINUING AUTHORITY PROGRAM DEFINED.—In this subsection, the term ‘continuing authority program’ has the meaning given that term in section 7001(c)(1)(D) of [the] Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d[(c)(1)(D)]).

“(b) AUTHORIZATIONS OF APPROPRIATIONS.—

“(1) EMERGENCY STREAMBANK AND SHORELINE PROTECTION.—Notwithstanding section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), there is authorized to be appropriated to carry out such section \$25,500,000 for each of fiscal years 2021 through 2024.

“(2) STORM AND HURRICANE RESTORATION AND IMPACT MINIMIZATION PROGRAM.—Notwithstanding section 3(c) of the Act of August 13, 1946 (33 U.S.C. 426g(c)), there is authorized to be appropriated to carry out such section \$38,000,000 for each of fiscal years 2021 through 2024.

“(3) SMALL RIVER AND HARBOR IMPROVEMENT PROJECTS.—Notwithstanding section 107(a) of the River and Harbor Act of 1960 (33 U.S.C. 577(a)), there is authorized to be appropriated to carry out such section \$63,000,000 for each of fiscal years 2021 through 2024.

“(4) REGIONAL SEDIMENT MANAGEMENT.—Notwithstanding section 204(g) of the Water Resources Development Act of 1992 (33 U.S.C. 2326(g)), there is authorized to be appropriated to carry out such section \$63,000,000 for each of fiscal years 2021 through 2024.

“(5) SMALL FLOOD CONTROL PROJECTS.—Notwithstanding section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), there is authorized to be appropriated to carry out such section \$69,250,000 for each of fiscal years 2021 through 2024.

“(6) AQUATIC ECOSYSTEM RESTORATION.—Notwithstanding section 206(f) of the Water Resources Development Act of 1996 (33 U.S.C. 2330(f)), there is authorized to be appropriated to carry out such section \$63,000,000 for each of fiscal years 2021 through 2024.

“(7) REMOVAL OF OBSTRUCTIONS; CLEARING CHANNELS.—Notwithstanding section 2 of the Act of August 28, 1937 (33 U.S.C. 701g), there is authorized to be appropriated to carry out such section \$8,000,000 for each of fiscal years 2021 through 2024.

“(8) PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.—Notwithstanding section 1135(h) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(h)), there is authorized to be appropriated to carry out such section \$50,500,000 for each of fiscal years 2021 through 2024.”

[For definition of “economically disadvantaged community” as used in section 165 of div. AA of Pub. L. 116-260, set out above, see section 160 of div. AA of Pub. L. 116-260, set out as a note below.]

REPORTS TO CONGRESS

Pub. L. 113-121, title I, § 1042, June 10, 2014, 128 Stat. 1243, provided that:

“(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary [of the Army] shall complete and submit to Congress by the applicable date required the reports that address public safety and enhanced local participation in project delivery described in subsection (b).

“(b) REPORTS.—The reports referred to in subsection (a) are the reports required under—

“(1) subparagraphs (A) and (B) of section 1043(a)(5) [33 U.S.C. 2201 note];

“(2) section 1046(a)(2)(B) [33 U.S.C. 2319 note];

“(3) section 210(e)(3) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(e)(3)) (as amended by section 2102(a)); and

“(4) section 7001 [33 U.S.C. 2282d].

“(c) FAILURE TO PROVIDE A COMPLETED REPORT.—

“(1) IN GENERAL.—Subject to subsection (d), if the Secretary fails to provide a report listed under subsection (b) by the date that is 180 days after the applicable date required for that report, \$5,000 shall be reprogrammed from the General Expenses account of the civil works program of the Army Corps of Engineers into the account of the division of the Army Corps of Engineers with responsibility for completing that report.

“(2) SUBSEQUENT REPROGRAMMING.—Subject to subsection (d), for each additional week after the date described in paragraph (1) in which a report described in that paragraph remains uncompleted and unsubmitted to Congress, \$5,000 shall be reprogrammed from the General Expenses account of the civil works program of the Army Corps of Engineers into the account of the division of the Secretary of the Army with responsibility for completing that report.

“(d) LIMITATIONS.—

“(1) IN GENERAL.—For each report, the total amounts reprogrammed under subsection (c) shall not exceed, in any fiscal year, \$50,000.

“(2) AGGREGATE LIMITATION.—The total amount reprogrammed under subsection (c) in a fiscal year shall not exceed \$200,000.

“(e) NO FAULT OF THE SECRETARY.—Amounts shall not be reprogrammed under subsection (c) if the Secretary certifies in a letter to the applicable committees of Congress that—

“(1) a major modification has been made to the content of the report that requires additional analysis for the Secretary to make a final decision on the report;

“(2) amounts have not been appropriated to the agency under this Act or any other Act to carry out the report; or

“(3) additional information is required from an entity other than the Corps of Engineers and is not available in a timely manner to complete the report by the deadline.

“(f) LIMITATION.—The Secretary shall not reprogram funds to the General Expenses account of the civil works program of the Corps of Engineers for the loss of the funds.”

NON-FEDERAL IMPLEMENTATION PILOT PROGRAM

Pub. L. 113-121, title I, §1043, June 10, 2014, 128 Stat. 1244, as amended by Pub. L. 115-270, title I, §1137, Oct. 23, 2018, 132 Stat. 3783; Pub. L. 116-260, div. AA, title I, §134(a), Dec. 27, 2020, 134 Stat. 2648, provided that:

“(a) NON-FEDERAL IMPLEMENTATION OF FEASIBILITY STUDIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [June 10, 2014], the Secretary [of the Army] shall establish and implement a pilot program to evaluate the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out feasibility studies for flood risk management, hurricane and storm damage reduction, aquatic ecosystem restoration, and coastal harbor and channel and inland navigation.

“(2) PURPOSES.—The purposes of the pilot program are—

“(A) to identify project delivery and cost-saving alternatives to the existing feasibility study process;

“(B) to evaluate the technical, financial, and organizational efficiencies of a non-Federal interest carrying out a feasibility study of 1 or more projects; and

“(C) to evaluate alternatives for the decentralization of the project planning, management, and operational decisionmaking process of the Corps of Engineers.

“(3) ADMINISTRATION.—

“(A) IN GENERAL.—On the request of a non-Federal interest, the Secretary may enter into an agreement with the non-Federal interest for the non-Federal interest to provide full project management control of a feasibility study for a project for—

“(i) flood risk management;

“(ii) hurricane and storm damage reduction, including levees, floodwalls, flood control channels, and water control structures;

“(iii) coastal harbor and channel and inland navigation; and

“(iv) aquatic ecosystem restoration.

“(B) USE OF NON-FEDERAL FUNDS.—

“(i) IN GENERAL.—A non-Federal interest that has entered into an agreement with the Secretary pursuant to subparagraph (A) may use non-Federal funds to carry out the feasibility study.

“(ii) CREDIT.—The Secretary shall credit towards the non-Federal share of the cost of construction of a project for which a feasibility study is carried out under this subsection an amount equal to the portion of the cost of developing the study that would have been the responsibility of the Secretary, if the study were carried out by the Secretary, subject to the conditions that—

“(I) non-Federal funds were used to carry out the activities that would have been the responsibility of the Secretary;

“(II) the Secretary determines that the feasibility study complies with all applicable Federal laws and regulations; and

“(III) the project is authorized by any provision of Federal law enacted after the date on which an agreement is entered into under subparagraph (A).

“(C) TRANSFER OF FUNDS.—

“(i) IN GENERAL.—After the date on which an agreement is executed pursuant to subparagraph (A), the Secretary may transfer to the non-Federal interest to carry out the feasibility study—

“(I) if applicable, the balance of any unobligated amounts appropriated for the study, except that the Secretary shall retain sufficient amounts for the Corps of Engineers to carry out any responsibilities of the Corps of Engineers relating to the project and pilot program; and

“(II) additional amounts, as determined by the Secretary, from amounts made available under paragraph (8), except that the total amount transferred to the non-Federal interest shall not exceed the updated estimate of the Federal share of the cost of the feasibility study.

“(ii) ADMINISTRATION.—The Secretary shall include such provisions as the Secretary determines to be necessary in an agreement under subparagraph (A) to ensure that a non-Federal interest receiving Federal funds under this paragraph—

“(I) has the necessary qualifications to administer those funds; and

“(II) will comply with all applicable Federal laws (including regulations) relating to the use of those funds.

“(D) NOTIFICATION.—The Secretary shall notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives

on the initiation of each feasibility study under the pilot program.

“(E) AUDITING.—The Secretary shall regularly monitor and audit each feasibility study carried out by a non-Federal interest under this section to ensure that the use of any funds transferred under subparagraph (C) are used in compliance with the agreement signed under subparagraph (A).

“(F) TECHNICAL ASSISTANCE.—On the request of a non-Federal interest, the Secretary may provide technical assistance to the non-Federal interest relating to any aspect of the feasibility study, if the non-Federal interest contracts with the Secretary for the technical assistance and compensates the Secretary for the technical assistance.

“(G) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into an agreement under subparagraph (A), each non-Federal interest, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule, based on full funding capability, that lists all deadlines for milestones relating to the feasibility study.

“(4) COST SHARE.—Nothing in this subsection affects the cost-sharing requirement applicable on the day before the date of enactment of this Act to a feasibility study carried out under this subsection.

“(5) REPORT.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report detailing the results of the pilot program carried out under this section, including—

“(i) a description of the progress of the non-Federal interests in meeting milestones in detailed project schedules developed pursuant to paragraph (3)(G); and

“(ii) any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

“(B) UPDATE.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an update of the report described in subparagraph (A).

“(C) FAILURE TO MEET DEADLINE.—If the Secretary fails to submit a report by the required deadline under this paragraph, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of why the deadline was missed and a projected date for submission of the report.

“(6) ADMINISTRATION.—All laws and regulations that would apply to the Secretary if the Secretary were carrying out the feasibility study shall apply to a non-Federal interest carrying out a feasibility study under this subsection.

“(7) TERMINATION OF AUTHORITY.—The authority to commence a feasibility study under this subsection terminates on the date that is 5 years after the date of enactment of this Act.

“(8) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts appropriated for a specific project, there is authorized to be appropriated to the Secretary to carry out the pilot program under this subsection, including the costs of administration of the Secretary, \$25,000,000 for each of fiscal years 2015 through 2019.

“(b) NON-FEDERAL PROJECT IMPLEMENTATION PILOT PROGRAM.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish and implement a pilot program to evaluate

the cost-effectiveness and project delivery efficiency of allowing non-Federal interests to carry out flood risk management, hurricane and storm damage reduction, coastal harbor and channel inland navigation, and aquatic ecosystem restoration projects.

“(2) PURPOSES.—The purposes of the pilot program are—

“(A) to identify project delivery and cost-saving alternatives that reduce the backlog of authorized Corps of Engineers projects;

“(B) to evaluate the technical, financial, and organizational efficiencies of a non-Federal interest carrying out the design, execution, management, and construction of 1 or more projects; and

“(C) to evaluate alternatives for the decentralization of the project management, design, and construction for authorized Corps of Engineers water resources projects.

“(3) ADMINISTRATION.—

“(A) IN GENERAL.—In carrying out the pilot program, the Secretary shall—

“(i) identify a total of not more than 20 projects for flood risk management, hurricane and storm damage reduction (including levees, floodwalls, flood control channels, and water control structures), coastal harbor and channels, inland navigation, and aquatic ecosystem restoration that have been authorized for construction, including—

“(I) not more than 12 projects that have been authorized for construction prior to the date of enactment of this Act and that—

“(aa)(AA) have received Federal funds prior to the date of enactment of this Act; or

“(BB) for more than 2 consecutive fiscal years, have an unobligated funding balance for that project in the Corps of Engineers construction account; and

“(bb) to the maximum extent practicable, are located in each of the divisions of the Corps of Engineers;

“(II) not more than 3 projects that have been authorized for construction prior to the date of enactment of this Act and that have not received Federal funds in the period beginning on the date on which the project was authorized and ending on the date of enactment of this Act; and

“(III) not more than 5 projects that have been authorized for construction, but did not receive the authorization prior to the date of enactment of this Act;

“(ii) notify the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the identification of each project under the pilot program;

“(iii) in collaboration with the non-Federal interest, develop a detailed project management plan for each identified project that outlines the scope, budget, design, and construction resource requirements necessary for the non-Federal interest to execute the project, or a separable element of the project;

“(iv) on the request of the non-Federal interest, enter into a project partnership agreement with the non-Federal interest for the non-Federal interest to provide full project management control for construction of the project, or a separable element of the project, in accordance with plans approved by the Secretary;

“(v) following execution of the project partnership agreement, transfer to the non-Federal interest to carry out construction of the project, or a separable element of the project—

“(I) if applicable, the balance of the unobligated amounts appropriated for the project, except that the Secretary shall retain sufficient amounts for the Corps of Engineers to carry out any responsibilities of the Corps of Engineers relating to the project and pilot program; and

“(II) additional amounts, as determined by the Secretary, from amounts made available under paragraph (8), except that the total amount transferred to the non-Federal interest shall not exceed the updated estimate of the Federal share of the cost of construction, including any required design; and

“(vi) regularly monitor and audit each project being constructed by a non-Federal interest under this section to ensure that the construction activities are carried out in compliance with the plans approved by the Secretary and that the construction costs are reasonable.

“(B) DETAILED PROJECT SCHEDULE.—Not later than 180 days after entering into an agreement under subparagraph (A)(iv), each non-Federal interest, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule, based on estimated funding levels, that lists all deadlines for each milestone in the construction of the project.

“(C) TECHNICAL ASSISTANCE.—On the request of a non-Federal interest, the Secretary may provide technical assistance to the non-Federal interest, if the non-Federal interest contracts with and compensates the Secretary for the technical assistance relating to—

“(i) any study, engineering activity, and design activity for construction carried out by the non-Federal interest under this subsection; and

“(ii) expeditiously obtaining any permits necessary for the project.

“(4) COST SHARE.—Nothing in this subsection affects the cost-sharing requirement applicable on the day before the date of enactment of this Act to a project carried out under this subsection.

“(5) REPORT.—

“(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report detailing the results of the pilot program carried out under this subsection, including—

“(i) a description of the progress of non-Federal interests in meeting milestones in detailed project schedules developed pursuant to paragraph (2)(B); and

“(ii) any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

“(B) UPDATE.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an update of the report described in subparagraph (A).

“(C) FAILURE TO MEET DEADLINE.—If the Secretary fails to submit a report by the required deadline under this paragraph, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of why the deadline was missed and a projected date for submission of the report.

“(6) ADMINISTRATION.—All laws and regulations that would apply to the Secretary if the Secretary were carrying out the project shall apply to a non-Federal interest carrying out a project under this subsection.

“(7) TERMINATION OF AUTHORITY.—The authority to commence a project under this subsection terminates on September 30, 2026.

“(8) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts appropriated for a specific project, there is authorized to be appropriated to the Secretary to carry out the pilot program under this

subsection, including the costs of administration of the Secretary, \$25,000,000 for each of fiscal years 2019 through 2026.

“(9) IMPLEMENTATION GUIDANCE.—

“(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph [Dec. 27, 2020], the Secretary shall issue guidance for the implementation of the pilot program that, to the extent practicable, identifies—

“(i) the metrics for measuring the success of the pilot program;

“(ii) a process for identifying future projects to participate in the pilot program;

“(iii) measures to address the risks of a non-Federal interest constructing projects under the pilot program, including which entity bears the risk for projects that fail to meet the Corps of Engineers standards for design or quality;

“(iv) the laws and regulations that a non-Federal interest must follow in carrying out a project under the pilot program; and

“(v) which entity bears the risk in the event that a project carried out under the pilot program fails to be carried out in accordance with the project authorization or this subsection.

“(B) NEW PROJECT PARTNERSHIP AGREEMENTS.—

The Secretary may not enter into a project partnership agreement under this subsection during the period beginning on the date of enactment of this paragraph and ending on the date on which the Secretary issues the guidance under subparagraph (A).”

WATER INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM

Pub. L. 113-121, title V, §5014, June 10, 2014, 128 Stat. 1329, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] shall establish a pilot program to evaluate the cost effectiveness and project delivery efficiency of allowing non-Federal pilot applicants to carry out authorized water resources development projects for coastal harbor improvement, channel improvement, inland navigation, flood damage reduction, aquatic ecosystem restoration, and hurricane and storm damage reduction.

“(b) PURPOSES.—The purposes of the pilot program established under subsection (a) are—

“(1) to identify cost-saving project delivery alternatives that reduce the backlog of authorized Corps of Engineers projects; and

“(2) to evaluate the technical, financial, and organizational benefits of allowing a non-Federal pilot applicant to carry out and manage the design or construction (or both) of 1 or more of such projects.

“(c) SUBSEQUENT APPROPRIATIONS.—Any activity undertaken under this section is authorized only to the extent specifically provided for in subsequent appropriations Acts.

“(d) ADMINISTRATION.—In carrying out the pilot program established under subsection (a), the Secretary shall—

“(1) identify for inclusion in the program at least 15 projects that are authorized for construction for coastal harbor improvement, channel improvement, inland navigation, flood damage reduction, or hurricane and storm damage reduction;

“(2) notify in writing the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of each project identified under paragraph (1);

“(3) in consultation with the non-Federal pilot applicant associated with each project identified under paragraph (1), develop a detailed project management plan for the project that outlines the scope, financing, budget, design, and construction resource requirements necessary for the non-Federal pilot applicant to execute the project, or a separable element of the project;

“(4) at the request of the non-Federal pilot applicant associated with each project identified under

paragraph (1), enter into a project partnership agreement with the non-Federal pilot applicant under which the non-Federal pilot applicant is provided full project management control for the financing, design, or construction (or any combination thereof) of the project, or a separable element of the project, in accordance with plans approved by the Secretary;

“(5) following execution of a project partnership agreement under paragraph (4) and completion of all work under the agreement, issue payment, in accordance with subsection (g), to the relevant non-Federal pilot applicant for that work; and

“(6) regularly monitor and audit each project carried out under the program to ensure that all activities related to the project are carried out in compliance with plans approved by the Secretary and that construction costs are reasonable.

“(e) **SELECTION CRITERIA.**—In identifying projects under subsection (d)(1), the Secretary shall consider the extent to which the project—

“(1) is significant to the economy of the United States;

“(2) leverages Federal investment by encouraging non-Federal contributions to the project;

“(3) employs innovative project delivery and cost-saving methods;

“(4) received Federal funds in the past and experienced delays or missed scheduled deadlines;

“(5) has unobligated Corps of Engineers funding balances; and

“(6) has not received Federal funding for recapitalization and modernization since the project was authorized.

“(f) **DETAILED PROJECT SCHEDULE.**—Not later than 180 days after entering into a project partnership agreement under subsection (d)(4), a non-Federal pilot applicant, to the maximum extent practicable, shall submit to the Secretary a detailed project schedule for the relevant project, based on estimated funding levels, that specifies deadlines for each milestone with respect to the project.

“(g) **PAYMENT.**—Payment to the non-Federal pilot applicant for work completed pursuant to a project partnership agreement under subsection (d)(4) may be made from—

“(1) if applicable, the balance of the unobligated amounts appropriated for the project; and

“(2) other amounts appropriated to the Corps of Engineers, subject to the condition that the total amount transferred to the non-Federal pilot applicant may not exceed the estimate of the Federal share of the cost of construction, including any required design.

“(h) **TECHNICAL ASSISTANCE.**—At the request of a non-Federal pilot applicant participating in the pilot program established under subsection (a), the Secretary may provide to the non-Federal pilot applicant, if the non-Federal pilot applicant contracts with and compensates the Secretary, technical assistance with respect to—

“(1) a study, engineering activity, or design activity related to a project carried out by the non-Federal pilot applicant under the program; and

“(2) obtaining permits necessary for such a project.

“(i) **IDENTIFICATION OF IMPEDIMENTS.**—

“(1) **IN GENERAL.**—The Secretary shall—

“(A) except as provided in paragraph (2), identify any procedural requirements under the authority of the Secretary that impede greater use of public-private partnerships and private investment in water resources development projects;

“(B) develop and implement, on a project-by-project basis, procedures and approaches that—

“(i) address such impediments; and

“(ii) protect the public interest and any public investment in water resources development projects that involve public-private partnerships or private investment in water resources development projects; and

“(C) not later than 1 year after the date of enactment of this section [June 10, 2014], issue rules to

carry out the procedures and approaches developed under subparagraph (B).

“(2) **RULE OF CONSTRUCTION.**—Nothing in this section allows the Secretary to waive any requirement under—

“(A) sections 3141 through 3148 and sections 3701 through 3708 of title 40, United States Code;

“(B) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

“(C) any other provision of Federal law.

“(j) **PUBLIC BENEFIT STUDIES.**—

“(1) **IN GENERAL.**—Before entering into a project partnership agreement under subsection (d)(4), the Secretary shall conduct an assessment of whether, and provide justification in writing to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that, the proposed agreement provides better public and financial benefits than a similar transaction using public funding or financing.

“(2) **REQUIREMENTS.**—An assessment under paragraph (1) shall—

“(A) be completed in a period of not more than 90 days;

“(B) take into consideration any supporting materials and data submitted by the relevant non-Federal pilot applicant and other stakeholders; and

“(C) determine whether the proposed project partnership agreement is in the public interest by determining whether the agreement will provide public and financial benefits, including expedited project delivery and savings for taxpayers.

“(k) **NON-FEDERAL FUNDING.**—The non-Federal pilot applicant may finance the non-Federal share of a project carried out under the pilot program established under subsection (a).

“(l) **APPLICABILITY OF FEDERAL LAW.**—Any provision of Federal law that would apply to the Secretary if the Secretary were carrying out a project shall apply to a non-Federal pilot applicant carrying out a project under this section.

“(m) **COST SHARE.**—Nothing in this section affects a cost-sharing requirement under Federal law that is applicable to a project carried out under the pilot program established under subsection (a).

“(n) **REPORT.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the results of the pilot program established under subsection (a), including any recommendations of the Secretary concerning whether the program or any component of the program should be implemented on a national basis.

“(o) **NON-FEDERAL PILOT APPLICANT DEFINED.**—In this section, the term ‘non-Federal pilot applicant’ means—

“(1) the non-Federal sponsor of the water resources development project;

“(2) a non-Federal interest, as defined in section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b [1962d-5b]); or

“(3) a private entity with the consent of the local government in which the project is located or that is otherwise affected by the project.”

FUNDING TO PROCESS PERMITS

Pub. L. 106-541, title II, § 214, Dec. 11, 2000, 114 Stat. 2594, as amended by Pub. L. 108-137, title I, § 114, Dec. 1, 2003, 117 Stat. 1836; Pub. L. 109-99, § 1, Nov. 11, 2005, 119 Stat. 2169; Pub. L. 109-209, § 1, Mar. 24, 2006, 120 Stat. 318; Pub. L. 109-434, § 1, Dec. 20, 2006, 120 Stat. 3197; Pub. L. 110-114, title II, § 2002, Nov. 8, 2007, 121 Stat. 1067; Pub. L. 111-120, § 1, Dec. 22, 2009, 123 Stat. 3478; Pub. L. 111-315, § 1, Dec. 18, 2010, 124 Stat. 3450; Pub. L. 113-121, title I, § 1006, June 10, 2014, 128 Stat. 1212, which related to funding to process permits and was formerly set out as a note under this section, was transferred to section 2352 of this title.

MONITORING

Pub. L. 106-541, title II, § 223, Dec. 11, 2000, 114 Stat. 2597, provided that:

“(a) IN GENERAL.—The Secretary shall conduct a monitoring program of the economic and environmental results of up to 5 eligible projects selected by the Secretary.

“(b) DURATION.—The monitoring of a project selected by the Secretary under this section shall be for a period of not less than 12 years beginning on the date of its selection.

“(c) REPORTS.—The Secretary shall transmit to Congress every 3 years a report on the performance of each project selected under this section.

“(d) ELIGIBLE PROJECT DEFINED.—In this section, the term ‘eligible project’ means a water resources project, or separable element thereof—

“(1) for which a contract for physical construction has not been awarded before the date of enactment of this Act [Dec. 11, 2000];

“(2) that has a total cost of more than \$25,000,000; and

“(3)(A) that has as a benefit-to-cost ratio of less than 1.5 to 1; or

“(B) that has significant environmental benefits or significant environmental mitigation components.

“(e) COSTS.—The cost of conducting monitoring under this section shall be a Federal expense.”

WATER CONTROL MANAGEMENT

Pub. L. 106-53, title V, § 511, Aug. 17, 1999, 113 Stat. 341, provided that:

“(a) IN GENERAL.—In evaluating potential improvements for water control management activities and consolidation of water control management centers, the Secretary may consider a regionalized water control management plan but may not implement such a plan until the date on which a report is submitted under subsection (b).

“(b) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 17, 1999], the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate a report containing—

“(1) a description of the primary objectives of streamlining water control management activities;

“(2) a description of the benefits provided by streamlining water control management activities through consolidation of centers for those activities;

“(3) a determination whether the benefits to users of establishing regional water control management centers will be retained in each district office of the Corps of Engineers that does not have a regional center;

“(4) a determination whether users of regional centers will receive a higher level of benefits from streamlining water control management activities; and

“(5) a list of the members of Congress who represent a district that includes a water control management center that is to be eliminated under a proposed regionalized plan.”

BUY AMERICAN; SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

Pub. L. 106-53, title II, § 222, Aug. 17, 1999, 113 Stat. 295, provided that:

“(a) IN GENERAL.—It is the sense of Congress that, to the extent practicable, all equipment and products purchased with funds made available under this Act [see Tables for classification] should be American made.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).”

Pub. L. 104-303, title II, § 235, Oct. 12, 1996, 110 Stat. 3704, provided that:

“(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act [see Tables for classification] should be American-made.

“(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).”

BUDGET ACT REQUIREMENTS

Pub. L. 99-662, title IX, § 948, Nov. 17, 1986, 100 Stat. 4201, provided that: “Any spending authority under this Act [see Short Title note above] shall be effective only to such extent and in such amounts as are provided in appropriation Acts. For purposes of this Act, the term ‘spending authority’ has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)], except that such term does not include spending authority for which an exception is made under section 401(d) of such Act.”

DEFINITION OF ECONOMICALLY DISADVANTAGED COMMUNITY

Pub. L. 116-260, div. AA, title I, § 160, Dec. 27, 2020, 134 Stat. 2665, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 27, 2020], the Secretary [of the Army] shall issue guidance defining the term ‘economically disadvantaged community’ for the purposes of this Act [div. AA of Pub. L. 116-260, see Short Title of 2020 Amendment note above] and the amendments made by this Act.

“(b) CONSIDERATIONS.—In defining the term ‘economically disadvantaged community’ under subsection (a), the Secretary shall, to the maximum extent practicable, utilize the criteria under paragraph (1) or (2) of section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161), to the extent that such criteria are applicable in relation to the development of water resources development projects.

“(c) PUBLIC COMMENT.—In developing the guidance under subsection (a), the Secretary shall provide notice and an opportunity for public comment.”

“SECRETARY” DEFINED

Pub. L. 116-260, div. AA, § 2, Dec. 27, 2020, 134 Stat. 2618, provided that: “In this Act [div. AA of Pub. L. 116-260, see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 115-270, title I, § 102, Oct. 23, 2018, 132 Stat. 3768, provided that: “In this title [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 114-322, title I, § 1002, Dec. 16, 2016, 130 Stat. 1632, provided that: “In this title [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 113-121, § 2, June 10, 2014, 128 Stat. 1195, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 110-114, § 2, Nov. 8, 2007, 121 Stat. 1049, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 106-541, § 2, Dec. 11, 2000, 114 Stat. 2575, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 106-53, § 2, Aug. 17, 1999, 113 Stat. 273, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 104-303, § 2, Oct. 12, 1996, 110 Stat. 3662, provided that: “In this Act [see Tables for classification], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 102-580, §3, Oct. 31, 1992, 106 Stat. 4801, provided that: “For purposes of this Act [see Short Title of 1992 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 101-640, §2, Nov. 28, 1990, 104 Stat. 4605, provided that: “For purposes of this Act [see Short Title of 1990 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

Pub. L. 100-676, §2, Nov. 17, 1988, 102 Stat. 4013, provided that: “For purposes of this Act [see Short Title of 1988 Amendment note above], the term ‘Secretary’ means the Secretary of the Army.”

Executive Documents

PROMOTING THE RELIABLE SUPPLY AND DELIVERY OF WATER IN THE WEST

Memorandum of President of the United States, Oct. 19, 2018, 83 F.R. 53961, provided:

Memorandum for the Secretary of the Interior[,] the Secretary of Commerce[,] the Secretary of Energy[,] the Secretary of the Army[, and] the Chair of the Council on Environmental Quality

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *Policy.* During the 20th Century, the Federal Government invested enormous resources in water infrastructure throughout the western United States to reduce flood risks to communities; to provide reliable water supplies for farms, families, businesses, and fish and wildlife; and to generate dependable hydropower. Decades of uncoordinated, piecemeal regulatory actions have diminished the ability of our Federal infrastructure, however, to deliver water and power in an efficient, cost-effective way.

Unless addressed, fragmented regulation of water infrastructure will continue to produce inefficiencies, unnecessary burdens, and conflict among the Federal Government, States, tribes, and local public agencies that deliver water to their citizenry. To meet these challenges, the Secretary of the Interior and the Secretary of Commerce should, to the extent permitted by law, work together to minimize unnecessary regulatory burdens and foster more efficient decision-making so that water projects are better able to meet the demands of their authorized purposes.

SEC. 2. *Streamlining Western Water Infrastructure Regulatory Processes and Removing Unnecessary Burdens.* To address water infrastructure challenges in the western United States, the Secretary of the Interior and the Secretary of Commerce shall undertake the following actions:

(a) Within 30 days of the date of this memorandum [Oct. 19, 2018], the Secretary of the Interior and the Secretary of Commerce shall:

(i) identify major water infrastructure projects in California for which the Department of the Interior and the Department of Commerce have joint responsibility under the Endangered Species Act of 1973 (ESA) (Public Law 93-205) [16 U.S.C. 1531 et seq.] or individual responsibilities under the National Environmental Policy Act of 1969 (NEPA) (Public Law 91-190) [42 U.S.C. 4321 et seq.]; and

(ii) for each such project, work together to facilitate the designation of one official to coordinate the agencies’ ESA and NEPA compliance responsibilities. Within the 30-day time period provided by this subsection, the designated official shall also identify regulations and procedures that potentially burden the project and develop a proposed plan, for consideration by the Secretaries, to appropriately suspend, revise, or rescind any regulations or procedures that unduly burden the project beyond the degree necessary to protect the public interest or otherwise comply with the law. For purposes of this memorandum, “burden” means to unnecessarily obstruct, delay, curtail, impede, or otherwise impose significant costs on the permitting, utilization, transmission, delivery, or supply of water resources and infrastructure.

(b) Within 40 days of the date of this memorandum, the Secretary of the Interior and the Secretary of Commerce shall develop a timeline for completing applicable environmental compliance requirements for projects identified under section 2(a)(i) of this memorandum. Environmental compliance requirements shall be completed as expeditiously as possible, and in accordance with applicable law.

(c) To the maximum extent practicable and consistent with applicable law, including the authorities granted to the Secretary of the Interior and the Secretary of Commerce under the Water Infrastructure Improvements for the Nation Act (Public Law 114-322):

(i) The Secretary of the Interior and the Secretary of Commerce shall ensure that the ongoing review of the long-term coordinated operations of the Central Valley Project and the California State Water Project is completed and an updated Plan of Operations and Record of Decision is issued.

(ii) The Secretary of the Interior shall issue final biological assessments for the long-term coordinated operations of the Central Valley Project and the California State Water Project not later than January 31, 2019.

(iii) The Secretary of the Interior and the Secretary of Commerce shall ensure the issuance of their respective final biological opinions for the long-term coordinated operations of the Central Valley Project and the California State Water Project within 135 days of the deadline provided in section 2(c)(ii) of this memorandum. To the extent practicable and consistent with law, these shall be joint opinions.

(iv) The Secretary of the Interior and the Secretary of Commerce shall complete the joint consultation presently underway for the Klamath Irrigation Project by August 2019.

(d) The Secretary of the Interior and the Secretary of Commerce shall provide monthly updates to the Chair of the Council on Environmental Quality and other components of the Executive Office of the President, as appropriate, regarding progress in meeting the established timelines.

SEC. 3. *Improve Forecasts of Water Availability.* To facilitate greater use of forecast-based management and use of authorities and capabilities provided by the Weather Research and Forecasting Innovation Act of 2017 (Public Law 115-25) [15 U.S.C. 8501 et seq.] and other applicable laws, the Secretary of the Interior and the Secretary of Commerce shall convene water experts and resource managers to develop an action plan to improve the information and modeling capabilities related to water availability and water infrastructure projects. The action plan shall be completed by January 2019 and submitted to the Chair of the Council on Environmental Quality.

SEC. 4. *Improving Use of Technology to Increase Water Reliability.* To the maximum extent practicable, and pursuant to the Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI) [43 U.S.C. 390h et seq.], the Water Desalination Act of 1996 (Public Law 104-298) [42 U.S.C. 10301 note], and other applicable laws, the Secretary of the Interior shall direct appropriate bureaus to promote the expanded use of technology for improving the accuracy and reliability of water and power deliveries. This promotion of expanded use should include:

(a) investment in technology and reduction of regulatory burdens to enable broader scale deployment of desalination technology;

(b) investment in technology and reduction of regulatory burdens to enable broader scale use of recycled water; and

(c) investment in programs that promote and encourage innovation, research, and development of technology that improve water management, using best available science through real-time monitoring of wildlife and water deliveries.

SEC. 5. *Consideration of Locally Developed Plans in Hydroelectric Projects Licensing.* To the extent the Secretary of the Interior and the Secretary of Commerce participate in Federal Energy Regulatory Commission

licensing activities for hydroelectric projects, and to the extent permitted by law, the Secretaries shall give appropriate consideration to any relevant information available to them in locally developed plans, where consistent with the best available information.

SEC. 6. *Streamlining Regulatory Processes and Removing Unnecessary Burdens on the Columbia River Basin Water Infrastructure.* In order to address water and hydro-power operations challenges in the Columbia River Basin, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Energy, and the Assistant Secretary of the Army for Civil Works under the direction of the Secretary of the Army, shall develop a schedule to complete the Columbia River System Operations Environmental Impact Statement and the associated Biological Opinion due by 2020. The schedule shall be submitted to the Chair of the Council on Environmental Quality within 60 days of the date of this memorandum.

SEC. 7. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of the Interior is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 2202. Non-Federal engagement and review

(a) Issuance

The Secretary shall expeditiously issue guidance to implement each covered provision of law in accordance with this section.

(b) Public notice

(1) In general

Prior to developing and issuing any new or revised implementation guidance for a covered water resources development law, the Secretary shall issue a public notice that—

(A) informs potentially interested non-Federal stakeholders of the Secretary's intent to develop and issue such guidance; and

(B) provides an opportunity for interested non-Federal stakeholders to engage with, and provide input and recommendations to, the Secretary on the development and issuance of such guidance.

(2) Issuance of notice

The Secretary shall issue the notice under paragraph (1) through a posting on a publicly accessible website dedicated to providing notice on the development and issuance of implementation guidance for a covered water resources development law.

(c) Stakeholder engagement

(1) Input

The Secretary shall allow a minimum of 60 days after issuance of the public notice under subsection (b) for non-Federal stake-

holders to provide input and recommendations to the Secretary, prior to finalizing implementation guidance for a covered water resources development law.

(2) Outreach

The Secretary may, as appropriate (as determined by the Secretary), reach out to non-Federal stakeholders and circulate drafts of implementation guidance for a covered water resources development law for informal input and recommendations.

(d) Submission

The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a copy of all input and recommendations received pursuant to subsection (c) and a description of any consideration of such input and recommendations.

(e) Development of guidance

When developing implementation guidance for a covered water resources development law, the Secretary shall take into consideration the input and recommendations received from non-Federal stakeholders, and make the final guidance available to the public on the publicly accessible website described in subsection (b)(2).

(f) Definitions

In this section:

(1) Covered provision of law

The term “covered provision of law” means a provision of law under the jurisdiction of the Secretary contained in, or amended by, a covered water resources development law, with respect to which—

(A) the Secretary determines guidance is necessary in order to implement the provision; and

(B) no such guidance has been issued as of October 23, 2018.

(2) Covered water resources development law

The term “covered water resources development law” means—

(A) the Water Resources Reform and Development Act of 2014;

(B) the Water Resources Development Act of 2016;

(C) this Act; and

(D) any Federal water resources development law enacted after October 23, 2018.

(Pub. L. 115-270, title I, §1105, Oct. 23, 2018, 132 Stat. 3772.)

Editorial Notes

REFERENCES IN TEXT

The Water Resources Reform and Development Act of 2014, referred to in subsec. (f)(2)(A), is Pub. L. 113-121, June 10, 2014, 128 Stat. 1193. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 2201 of this title and Tables.

The Water Resources Development Act of 2016, referred to in subsec. (f)(2)(B), is title I of Pub. L. 114-322, Dec. 16, 2016, 130 Stat. 1632. For complete classification of this Act to the Code, see Short Title of 2016 Amendment note set out under section 2201 of this title and Tables.